

REMARKS

Claims 1,2 are pending. Claims 1,2 stand rejected for anticipation v. Bujaryn (5,542,746), Serber (4,832,407, and Opsvik (4,607,882).

Examiner's comments have been carefully considered. Claims 1,2 are currently amended in response to Examiner's comments to further differentiate v. Bujaryn (5,542,746), Serber (4,832,407, and Opsvik (4,607,882).

In order for an anticipation rejection to be supported, the cited reference must include all of the elements and limitations of the invention. In the present case, the three references cited by the Examiner all lack one, or more, of the elements and/ limitations of the instant invention.

First, the instant invention has feet that are fixed to the seat plate creating a rigid structure to the floor. The cited references, however, all incorporate movement between the seat and the floor. Specifically, Bujaryn and Serber are on casters, and Opsvik has a swivel pedestal for the seat mount. Applicant submits that this is a significant limitation which relates to the purpose of the invention: control of posture for selected time periods.

Second, the instant invention has foot support rods positioned below the rear of the seat plate. These contribute to the preferred posture of the user and are a significant element of the instant invention. None of the cited references have this element.

Third, the instant invention has a seat plate with a fixed incline to the horizontal of about 12 to 15 degrees down. The Bujaryn seat angle is adjustable with a range from 20 degrees up to 20 degrees down with no apparent preference. Likewise, the Serber seat angle is adjustable with a range from 15 degrees up to 15 degrees down with no apparent preference. The Opsvik seat has slight inclines up in some places and down in others, but the overall seat orientation is horizontal. Although the seat angle of the instant invention is within the range of adjustment in Bujaryn and Serber, the specified

angle is narrow, specific, not identified for preference by the cited references, and has critical importance to the instant invention. As such, Applicant respectfully submits that the critical seat angle specified in the instant invention is a significant limitation, and is not anticipated by any of the cited references.

Fourth, one element of the instant invention is a seat plate having no backrest. It is sometimes argued that simply removing one element or limitation is not, in and of itself, a patentable difference. However, for the reasons set forth below, Applicant submits that the absence of a backrest is a significant limitation in the instant invention. This is due to the fact that in the absence of a backrest, the user must align their torso to the three points defined by the seat plate, the frontal torso positioning device, and the foot support bars. As described in the specification, this conforms the user's body to the preferred alignment. The presence of a backrest would allow the user to comfortably depart from the preferred body position. Applicant respectfully submits, therefore, that the absence of a backrest is a significant element and a meaningful distinction from the prior art in the instant application.

Lastly, the instant invention has a frontal torso positioning device. Admittedly, the original terminology of "positioning device" was overly broad and allowed many interpretations. The currently amended terminology focuses on the functionality, and the uniqueness, of the element. The Examiner noted that the previous terminology allowed elements 8R & 8L from Bujaryn to be arguably equivalents even though they are, in fact, arm rests. However, the amended terminology clarifies the functionality (torso support) and the geometry (frontal rather than alongside) so that 8R & 8L are clearly no longer equivalents.

As discussed above, the cited references do not, any one of them, include all of the elements and limitations of the instant invention. Applicant respectfully submits, as a result of this, that the cited references do not individually anticipate the instant invention.

Further, since the cited references do not, in combination, include all of elements in the instant invention, they also do not support an obviousness rejection. In addition, they do not contain a "clear and particular" suggestion to combine in a manner which would yield the instant invention, which is also required to support an obviousness rejection.

Applicant believes that this amendment corrects all instances to which the Examiner objected to, or rejected claims, and places all remaining claims in condition for allowance. Reconsideration of the rejections is respectfully requested.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for issue. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (408) 358-0489.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ralph H. Willgohe", written in a cursive style.

Ralph H. Willgohe

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